

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAKAN CHAMEL MILLS,

Plaintiff,

v.

R. CUELLAR, et al.,

Defendants.

No. 1:20-cv-01247-NONE-EPG (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
DEFENDANT DIAZ FROM THIS ACTION,  
WITHOUT PREJUDICE

(Doc. Nos. 19, 21, 28)

Jakan Mills (“plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

This case is proceeding on plaintiff’s Eighth Amendment excessive force claim against defendants Cuellar and Diaz. (Doc. Nos. 15 & 23.)

On February 12, 2021, the assigned magistrate judge entered findings and recommendations, recommending “that defendant Diaz be dismissed from this action, without prejudice, because of Plaintiff’s failure to provide the Marshal with accurate and sufficient information to effect service of the summons and complaint on defendant Diaz (or his successor or representative) within the time period prescribed by Federal Rule of Civil Procedure 4(m).” (Doc. No. 28 at 3.)

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1 Plaintiff was provided an opportunity to file objections to the findings and  
2 recommendations. The deadline to file objections has passed, and plaintiff has not filed  
3 objections or otherwise responded to the findings and recommendations.

4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
5 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the  
6 magistrate judge's findings and recommendations are supported by the record and by proper  
7 analysis.

8 Accordingly,

- 9 1. The findings and recommendations issued on February 12, 2021, (Doc. No. 28),  
10 are adopted in full;
- 11 2. Defendant Diaz is dismissed from this action, without prejudice, because of  
12 plaintiff's failure to provide the United States Marshals Service with accurate and  
13 sufficient information to effect service of the summons and complaint on  
14 defendant Diaz (or his successor or representative) within the time period  
15 prescribed by Federal Rule of Civil Procedure 4(m); and
- 16 3. The Clerk of Court is directed to reflect the dismissal of defendant Diaz on the  
17 Court's docket.

18 IT IS SO ORDERED.

19 Dated: March 24, 2021

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21 UNITED STATES DISTRICT JUDGE